

collect, or to attempt to engage in such conduct. "Harm" is further defined by regulation as any act that kills or injures wildlife including significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3).

The Service, however, may issue permits to carry out otherwise lawful activities involving take of endangered and threatened wildlife under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23, and 17.32. For threatened species, such permits are available for scientific purposes, enhancing the propagation or survival of the species, economic hardship, zoological exhibition or educational purposes, incidental taking, or special purposes consistent with the purposes of the Act.

Clark County; the cities of Las Vegas, North Las Vegas, Henderson, Mesquite, and Boulder City; and Nevada Department of Transportation (NDOT) (Applicants) submitted an application to the Service for a permit to incidentally take desert tortoises (*Gopherus agassizii*), pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act), in association with various proposed public and private projects in Clark County, Nevada. The proposed permit would allow incidental take of desert tortoises for a period of 30 years, resulting from development on up to 113,900 acres of private lands with Clark County, Nevada. The permit application was received September 28, 1994, and was accompanied by the *Clark County Desert Conservation Plan* (CCDCP), which serves as the Applicant's habitat conservation plan and details their proposed measures to minimize, monitor, and mitigate the impacts of the proposed take on the desert tortoise.

To minimize the impacts of take, the Applicants propose to provide a free pick-up and collection service for desert tortoises encountered in harm's way within Clark County. These desert tortoises will be made available for beneficial uses such as translocation studies and programs, research, education, zoos, museums, or other programs approved by the Service and Nevada Division of Wildlife. Sick or injured desert tortoises will be humanely euthanized. NDOT will incorporate specific measures into its operations to avoid or minimize impacts to desert tortoises. Clark County will also implement a public information and education program to benefit the desert tortoise and the desert ecosystem.

To mitigate the impacts of take, the Applicants propose to provide funding of between \$1 million and \$1.325 million per year for State and Federal resource managers to implement desert tortoise recovery measures recommended in the *Desert Tortoise (Mojave Population) Recovery Plan* and for the planning and management of lands both within and outside of desert wildlife management areas to address the needs of other plant and wildlife resources to avoid the need to list these species as threatened or endangered under the Act in the future. The Applicants also propose to purchase a conservation easement that preserves, protects, and assures the management and study of the conservation values, and in particular the habitat of the desert tortoise, of more than 85,000 acres of non-Federal land in Clark County.

Clerk County or the cities would approve the issuance of land development permits for otherwise lawful public and private project proponents during the 30-year period in which the proposed Federal permit would be in effect. Clark County or the cities would impose, and NDOT would pay, a fee of \$550 per acre of habitat disturbance to fund the measures to minimize and mitigate the impacts of the proposed action on desert tortoises.

The underlying purpose or goal of the proposed action is to develop a program designed to ensure the continued existence of the species, while resolving potential conflicts that may arise from otherwise lawful private and public improvement projects.

Two alternatives are under consideration. Issuance of the permit with the mitigation, minimization, and monitoring measures outlined in the CCDCP is the Service's preferred action and is discussed above. The EIS also outlines alternative measures that may be considered by the Service in issuing the permit. The other alternative selected for detailed evaluation is a No Action alternative. The No Action alternative was not identified as the preferred alternative because it would diffuse existing regional conservation planning efforts for the desert tortoise and possibly concentrate activity on individual project needs and not meet the purpose and need of the applicants. Additionally, the No Action alternative could result in adverse impacts to the social environment within Clark County due to constraints on land-use activities that would impact the desert tortoise.

In the development of this draft EIS, the Service initiated action to ensure compliance with the purpose and intent of the National Environmental Policy

Act of 1969, as amended. Scoping activities were undertaken preparatory to developing the EIS with a variety of Federal, State, and local entities. A Notice of Intent to prepare the EIS was published February 4, 1994 (59 FR 5439), and a public scoping meeting was held February 14, 1994.

Key issues addressed in this draft EIS are identified as the effects that implementation of the alternatives would have upon: (1) The desert tortoise, (2) plant communities of concern, (3) other species of concern, (4) land uses, (5) socioeconomics, and (6) cultural resources.

Eight alternatives were considered before limiting the alternatives to be advanced for further study. Alternatives considered but not advanced for detailed analysis included: (1) A multiple-species plan, (2) a statewide plan, (3) a range-wide plan, (4) mitigation on non-Federal land, and (5) continuation of the short-term HCP. Alternatives advanced for detailed analysis include: (1) Issuing the permit with the mitigation, minimization, and monitoring measures outlined in the CCDCP or with one or more of the alternative measures provided and (2) a No Action Alternative. Alternative 1 is the Service's preferred alternative.

The No Action alternative would benefit individual desert tortoises on private lands in the short-term, however, it has been determined that viable populations of desert tortoises will not persist in the urban areas over the long-term. The No Action alternative would, therefore, not provide the benefits of the long-term recovery efforts for the desert tortoise identified in the CCDCP. In addition, the No action alternative would diffuse existing regional conservation planning efforts for the desert tortoise and possibly concentrate activity on individual project needs and not meet the purpose and need of the applicants. The No Action alternative could also result in adverse impacts to the social environment within Clark County due to constraints on land-use activities that would impact the desert tortoise.

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